IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2005

CORAM:

THE HONOURABLE MR JUSTICE T.V.MASILAMANI

Civil Revision Petition (PD) No.1100 of 2004
and
CMP.No.10872 of 2004

S.N.Vijayakumar ... Petitioner/ Defendant

Versus

S.R.Velusamy ... Respondent/ Plaintiff

Civil Revision Petition filed against the order and decreetal order passed in I.A.No.1336 of 2003 in O.S.No.292 of 1999 dated 17.12.2003 on the file of the Sub Court, Dharapuram.

For petitioner : Mr.A.K.Sridharan
For Respondent : Mr.S.Soundar

O R D E R

The revision petitioner is the defendant who failed before the trial Court in I.A.No.292 of 1999 to obtain an order to send the disputed document to the Handwriting Expert for comparison of the signatures and to submit a report. He has come forward with this petition challenging the legality of the said order in the Interlocutory Application dated 17.12.2003.

2. Heard both sides. The only point for consideration is whether the trial Court has to exercise its power under Section 73 of the Indian Evidence Act to compare the signature in the disputed document with that of the signatures in the admitted documents before ever the document is sent to the hand writing expert for comparison.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

3. The provision under Section 73 of the Indian Evidence Act reads as follows:

> "73.Comparison of signature, writing or seal with others admitted or proved:- In order to ascertain whether a signature, writing or seal is that of the person by whom it purports to have been written or made, any signature, writing, or seal admitted or proved to the satisfaction of the Court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing, or seal has not been produced or proved for any other purpose.
>
> The Court may direct any person present in Court to write any words or figures for the purpose of enabling the Court to compare the words or figures so written by such person."

4. Thus it is clear that the said provision of law gives ample power to the trial Court to compare the signature in the disputed document and the admitted signatures of the revision petitioner and then come to an independent conclusion based on such comparison. If in any event, the trial Court finds it difficult to arrive at any definite conclusion even after such comparison, it is open to either of the parties to take the document to a hand writing expert for comparison and offering his opinion on this aspect of the matter. Hence this Court is of the considered view that the trial Court may be suitably directed to adopt such course as stated above and dispose of the suit at an early date.

5. Thus the Civil Revision Petition is ordered as here under:

i) The trial Court is directed to compare the disputed signature of the revision petitioner with that of the admitted signatures to arrive at the right conclusion. If in any event, the trial Court is unable to reach any definite conclusion after comparison of such signatures of the revision petitioner and the signature in dispute, a suitable direction may be given to the revision petitioner/defendant to take the document to the forensic laboratory for comparison by a hand writing expert in order to obtain the expert opinion.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

ii) The trial Court is also directed to dispose of the suit within three months from the date of receipt of a copy of this Order.

6. In the result, the civil revision petition is ordered as per the above directions. Consequently, connected CMP is closed. However, there will be no order as to costs.

ksr

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Subordinate Judge, Dharapuram.
(directed to dispose the suit within three months)

+ 1 cc to Mr.A.K.Sridharan, Advocate SR 14166

+ 1 cc to Mr.S.Soundar, Advocate SR 14168

TEJ(CO)
SR/4.4.2005

C.R.P.(PD)No.1100 of 2004

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/